
NORTH AYRSHIRE COUNCIL

Planning Committee

Locality	Irvine
Reference	22/00417/PP
Application Registered	7th June 2022
Decision Due	7th August 2022
Ward	Irvine South

Recommendation	Approve subject to conditions, that no substantive objections are received after the 29 th June 2022.
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Location	Site To North Of Albann Ltd Third Avenue Heatherhouse Industrial Estate Irvine Ayrshire
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Applicant	Mr Daniel McKay
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Proposal	Section 42 application to remove condition 1 of Planning Permission 14/00473/PP to remove control over the beneficiary of Planning Permission
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1. Description

The application site contains a mobile snack van which is permanently sited on the roadside at Third Avenue, Irvine, to the north of the Merck factory and to the south of the Tesco car park. The character of the surrounding area is that of an industrial estate and retail park.

The snack van, known as 'Dandan's Diner', was initially refused planning permission to be sited at this location at a Planning Committee in November 2011 (11/00650/PP). The reasons for refusal were on the grounds of road safety due to the siting of the van on the public road. The applicant appealed this decision, and in May 2012, the Scottish Government reporter allowed the appeal subject to the conditions that:

1. This permission is personal to the applicant (Mr Daniel McKay),
2. The permission shall enure for a period of two years from the start of the operation, and
3. The mobile snack bar, and all materials, waste etc. associated with the business shall be removed from the site at the end of the day.

Following this, in 2014, the applicant applied for the siting of the snack van on a permanent basis (14/00473/PP). This was granted at Planning committee in September 2014, subject to the following conditions:

1. That the planning permission hereby granted shall enure not for the benefit of the land to which it relates but for the benefit of the applicant only, and
2. That the mobile snack bar, and all materials, waste etc. associated with the business shall be removed from the site at the end of each day.

In June 2022, the applicant applied under Section 42 of the Town and Country Planning (Scotland) Act 1997, as amended, to modify Condition 1 of Planning Permission ref. 14/00473/PP to change the beneficiary of the Planning Permission from Mr Daniel McKay to Mr John Brannigan. Following Officer discussions with the applicant, it was agreed that there is no longer any need for the Council to exercise control over the beneficiary of this Planning Permission. This application is therefore to remove condition 1 of Planning Permission ref. 14/00473/PP entirely.

In the adopted North Ayrshire Local Development Plan (LDP) the site lies within a Business and Industry allocation. The relevant policy of the LDP which this proposal shall be assessed in terms of is Strategic Policy 2: Placemaking.

Relevant Development Plan Policies

Strategic Policy 2

Placemaking

Our Placemaking policy will ensure we are meeting LOIP priorities to make North Ayrshire safer and healthier by ensuring that all development contributes to making quality places. The policy also safeguards, and where possible enhances environmental quality through the avoidance of unacceptable adverse environmental or amenity impacts. We expect that all applications for planning permission meet the six qualities of successful places, contained in this policy. This is in addition to establishing the principle of development in accordance with Strategic Policy 1: Spatial Strategy. These detailed criteria are generally not repeated in the detailed policies section of the LDP. They will apply, as appropriate, to all developments.

Six qualities of a successful place

Distinctive

The proposal draws upon the positive characteristics of the surrounding area including landscapes, topography, ecology, skylines, spaces and scales, street and building forms, and materials to create places with a sense of identity.

Welcoming

The proposal considers the future users of the site and helps people to find their way around, for example, by accentuating existing landmarks to create or improve views (including sea views), locating a distinctive work of art in a notable place or making the most of gateway features to and from the development. It should also ensure that appropriate signage and lighting is used to improve safety and illuminate attractive buildings.

Safe and Pleasant

The proposal creates attractive places by providing a sense of security, including by encouraging activity, considering crime rates, providing a clear distinction between private and public space, creating active frontages and considering the benefits of natural surveillance for streets, paths and open spaces.

The proposal creates a pleasant, positive sense of place by promoting visual quality, encouraging social and economic interaction and activity, and by considering the place before vehicle movement.

The proposal respects the amenity of existing and future users in terms of noise, privacy, sunlight/daylight, smells, vibrations, glare, traffic generation, and parking. The proposal sufficiently investigates and responds to any issues of ground instability.

Adaptable

The proposal considers future users of the site and ensures that the design is adaptable to their needs. This includes consideration of future changes of use that may involve a mix of densities, tenures, and typologies to ensure that future diverse but compatible uses can be integrated including the provision of versatile multi-functional greenspace.

Resource Efficient

The proposal maximises the efficient use of resources. This can be achieved by re-using or sharing existing resources and by minimising their future depletion. This includes consideration of technological and natural means such as flood drainage systems, heat networks, solar gain, renewable energy and waste recycling as well as use of green and blue networks.

Easy to Move Around and Beyond

The proposal considers the connectedness of the site for people before the movement of motor vehicles, by prioritising sustainable and active travel choices, such as walking, cycling and public transport and ensuring layouts reflect likely desire lines, through routes and future expansions.

2. Consultations and Representations

The statutory neighbour notification process was undertaken and there was no requirement to advertise the application. The deadline for public comments is the 29th June 2022. No comments have been received to date. No consultations were required out as part of this application.

3. Analysis

Strategic Policy 2 states that all applications for planning permission should meet the qualities of successful places. The reason for the personal condition attached to the original planning permission granted by the Reporter, who was appointed by Scottish Ministers to determine an appeal in 2012 following refusal by the Council's Planning Committee, was to avoid the possibility of other traders trying to use the permission during an initial trial period of two years. When the applicant applied to make the siting of the snack van permanent in 2014, this condition was reworded, but was essentially re-applied.

Given that the reason that the permission was initially made personal was in recognition of the temporary trial nature of the original permission and given that permission was granted for the permanent siting of a snack van on this site in September 2014, it is not considered necessary for the Council to continue to exercise control over the beneficiary of the planning permission for the snack van. It is therefore considered acceptable that condition 1 of planning permission ref. 14/00473/PP be removed in its entirety, and that the permission for the snack van should relate to the land that it is sited on. The only remaining condition that would be reapplied relates to the removal of the snack bar and waste from the site at the end of each day. Subject to this condition, the proposal would meet the qualities of successful places and would accord with Strategic Policy 2: Placemaking.

There are no other material considerations. Given that the proposal is in accordance with the relevant policies of the LDP, it is considered that planning permission can be granted.

4. Full Recommendation

Approved subject to Conditions

Reasons for Decision

Condition

1. That the mobile snack bar, and all materials, waste etc. associated with the business shall be removed from the site at the end of each day.

Reason

In order to keep the site tidy. In the interest of amenity.

James Miller
Chief Planning Officer

For further information please contact Mr John Mack on 01294 324794.

Appendix 1 – Location Plan

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